IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 3618 of 2006(S)

PETITIONERS:
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1. **THE CHIEF POSTMASTER GENERAL,**
   KERALA CIRCLE, THIRUVANANTHAPURAM-33.

2. **THE SENIOR SUPERINTENDENT OF POST OFFICES**
   KOLLAM DIVISION, KOLLAM.

3. **THE UNION OF INDIA,**
   REPRESENTED BY THE SECRETARY, MINISTRY OF
   COMMUNICATIONS, NEW DELHI.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT S.G.

RESPONDENT:

SMT. R.PADMA, W/O.SRI.N.DAMODARAN PILLAI
SWEEPER, OFFICE OF THE SENIOR SUPERINTENDENT OF
POST OFFICES, KOLLAM POSTAL DIVISION, KOLLAM,
RESIDING AT AT "PRANAVAM", AMBIPOYKA P.O.,KUNDARA,
KOLLAM DISTRICT.

BY ADV. SRI.O.V.RADHAKRISHNAN (SR.),
SMT.K.RADHAMANI AMMA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/03/2007,ALONG WITH W.P(C). NO.4956/2006,THE COURT ON 22/03/2007 DELIVERED THE FOLLOWING:

W.P.(C). NO.3618/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE O.A. NO. 977/2003 OF THE CAT, ERNAKULAM DT. 08/12/2003.

EXT.P.2: COPY OF THE REPLY STATEMENT FILED BY THE PETITIONERS HEREIN IN O.A. 977/2003 DT. 28/06/2004.

EXT.P.3: COPY OF THE REJOINDER FILED BY THE RESPONDENT HEREIN IN O.A. 977/2003 DT. 26/09/2004.

EXT.P.4: COPY OF THE ADDITIONAL REPLY STATEMENT FILED BY THE PETITIONERS HEREIN IN O.A. NO. 977/2003 DT. 07/01/2005.

EXT.P.5: COPY OF THE ORDER IN .A. NO. 977/2003 OF THE CAT, ERNAKULAM DT. 07/10/2005.

EXT.P.6: COPY OF THE OFFICE MEMORANDUM DT. 16/05/2001 ISSUED BY THE GOVT. OF INDIA.

EXT.P.7: COPY OF THE ORDER DT. 26/05/2005 IN O.A. NO. 1033/PB 2003 OF THE CAT CANDIGARH BENCH.

EXT.P.8: COPY OF THE LETTER ISSUED FROM THE OFFICE OF THE DIRECTOR GENERAL, DEPT. OF POSTS BEARING NO. 60-1/2002 -SPB I DT. 06/09/2002.

//TRUE COPY//

prv.

J.B. Koshy & T.R. Ramachandran Nair, JJ.

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2.5.1999. In both cases the respondents claim their right for appointment against 25% vacancies of Group D posts.

3. The Tribunal in paragraphs 9 and 10 of the order, after considering the contentions of the parties, found that the method of recruitment provided in claims like these, is in the nature of promotion and it is not by way of any direct recruitment. It was also found that the contention raised by the petitioners that approval of the Screening Committee is mandatory for filling up of the posts, is not correct. The Tribunal, on an analysis of the relevant column of the recruitment rules, clearly found that the casual labourers who are entitled to be considered for promotion was left out from being promoted, resulting in discriminatory treatment. The Tribunal clearly found that there were sufficient vacancies which would definitely fall under the 25% category set apart for casual labourers. This being a finding of fact, it cannot be interfered with in proceedings under Article 227 of the Constitution of India and the petitioners could not point out that the said finding is perverse.

4. As far as the claim of the respondents for promotion is concerned, the petitioners clearly admitted in the pleadings that the applicant in O.A. No.277/2004, the respondent in Writ Petition No.4956/2006 is the seniormost eligible to be appointed and the respondent in Writ Petition No.3618/2006 is the second in the list. They being casual labourers with temporary status, they are clearly covered by the method of recruitment.

Accordingly, the Tribunal directed the petitioners to fill up the substantive vacancies in Group D which arose in Kollam Division in accordance with the relevant recruitment rules and to appoint the respondents to those posts from the date of vacancies.

5. The main contention raised by the petitioners is that prior approval of the Screening Committee is a must for filling up of the vacancies and also that the method of recruitment is only by way of direct recruitment. A reading of the recruitment rules will show that the contention raised by the petitioners that only direct recruitment is the method, is not correct. Apart from that, they are not justified in contending that prior approval of the Screening Committee is required, as the same is not provided under the recruitment rules. The finding rendered by the Tribunal that the respondents who are applicants before it are entitled for promotion, is therefore perfectly in order. At any rate, the view taken by the Tribunal is not so perverse warranting interference by this court under Article 227 of the Constitution of India.

Hence, the writ petitions are dismissed upholding the order of the Central Administrative Tribunal.

(J.B. Koshy, Judge.)

(T.R. Ramachandran Nair, Judge.)